

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: HALE, <i>ET AL.</i>	)	
SERIAL NO.: 10/633,876	)	EXAMINER: HAGHIGHATIAN, MINA
FILED: AUGUST 4, 2003	)	ART UNIT: 3743
TITLE: RAPID-HEATING DRUG DELIVERY ARTICLE AND METHOD OF USE	)	CONFIRMATION NO.: 5253
	)	

**VIA EFS**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**TERMINAL DISCLAIMER TO OBVIATE PROVISIONAL DOUBLE  
PATENTING REJECTIONS OVER PENDING “REFERENCE” APPLICATIONS**

The owner, Alexza Pharmaceuticals, Inc., of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 10/057,198, filed on October 26, 2001; pending **reference** Application Number 10/057,197, filed on October 26, 2001; and pending **reference** Application Number 10/437,643, filed on May 13, 2003 (each hereinafter a “**reference** application”), as such term is defined in 35 U.S.C. § 154 and 173, and as the term of any patent granted on such **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on a **reference** application is commonly owned.

This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. § 154 and 173 of any patent granted on a pending **reference** application, “as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application,” in the event that any such patent granted on the **reference** application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney of record.

The undersigned hereby authorizes the charge of the terminal disclaimer fee of \$70.00 or any deficiency of fees to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date September 8, 2009

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